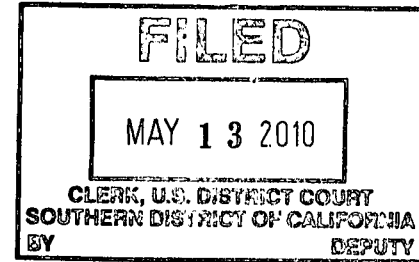


ORIGINAL

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10 UNITED STATES DISTRICT COURT

11 SOUTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,)	Case No. <u>10CR1542-LAB-2</u>
)	
13 Plaintiff,)	
)	
14 v.)	<u>PLEA AGREEMENT</u>
)	(Pre-Indictment Fast-Track Program)
15 JESUS ANGEL PAZ-ESTAVILLO (2),)	
)	
16 Defendant.)	
)	
17)	

18 IT IS HEREBY AGREED between the plaintiff, UNITED STATES OF
 19 AMERICA, through its counsel, Karen P. Hewitt, United States Attorney,
 20 and Helen H. Hong, Assistant United States Attorney, and defendant,
 21 JESUS ANGEL PAZ-ESTAVILLO, with the advice and consent of Elizabeth
 22 M. Barros, counsel for defendant, as follows:

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28 HHH:rp:4/23/10

Def. Initials TAPE

I

THE PLEA

A. The Charge. Defendant agrees to waive Indictment and plead guilty to a single-count Information charging defendant with:

On or about April 10, 2010, within the Southern District of California, defendant JESUS ANGEL PAZ-ESTAVILLO, with the intent to violate the immigration laws of the United States, did bring or attempt to bring to the United States an alien, namely, Israel Lopez-Ramirez, knowing that said person was an alien, at a place other than a designated port of entry and at a place other than as designated by the Department of Homeland Security; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(i) and (v)(II).

This plea agreement is part of a "package" disposition. In order for defendant to receive the benefit of this agreement, codefendant(s) ALEXANDRA BUTCHER also must plead guilty at the same time. See Section VI.E. below.

B. No Prosecution on Mandatory Minimum Count. In exchange for defendant's guilty plea and sentencing on the single-count Information and provided defendant complies fully with all terms of this plea agreement, the Government agrees not to charge him/her with violating 8 U.S.C. § 1324(a)(2)(B)(ii), which, under the facts of this case, carries a three-year mandatory minimum sentence.

C. Forfeiture. The defendant further agrees to the administrative and/or civil forfeiture of all properties seized in connection with this case which the defendant agrees are subject to forfeiture to the United States pursuant to Title 8, United States Code, Section 1324(b). The defendant further waives his/her right to receive timely notice of administrative forfeiture as set forth in 18 U.S.C. § 983(a) and waives receipt of all notice of forfeiture in this and all other administrative and civil proceedings. Defendant

warrants and represents as a material fact that all property in which he/she has any interest may be forfeited as described above.

II

NATURE OF THE OFFENSE

A. ELEMENTS EXPLAINED

Defendant understands that the offense to which defendant is pleading guilty has the following elements:

1. Defendant brought a person who was an alien into the United States at a place other than a designated port of entry or at a place other than as designated by a United States immigration official;
2. Defendant knew that the person was an alien; and,
3. Defendant acted with the intent to violate the United States immigration laws by assisting that person to enter the United States at a time or place other than as designated by a United States immigration official or to otherwise elude United States immigration officials.

B. ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS

Defendant has fully discussed the facts of this case with defense counsel. Defendant has committed each of the elements of the crime, and admits that there is a factual basis for this guilty plea. The following facts are true and undisputed:

1. On April 10, 2010, defendant aided in bringing in 4 aliens including, Israel Lopez-Ramirez, into the United States from Mexico aboard a boat to Mission Bay, California, by assisting in refueling the boat.
2. Defendant knew that Israel Lopez-Ramirez was an alien.
3. The material witness was paying an unknown amount to others to be brought into the United States illegally and transported illegally to his destination therein.
4. Defendant acted with the intent to violate the United States immigration laws by assisting Israel Lopez-Ramirez to enter the United States at a time or place other than as designated by a United States immigration official or to otherwise elude United States immigration officials.

1 III

2 PENALTIES

3 Defendant understands that the crime to which defendant is
4 pleading guilty carries the following penalties:

- 5 A. a maximum 10 years in prison;
6 B. a maximum \$250,000.00 fine;
7 C. a mandatory special assessment of \$100.00 per count; and
8 D. a term of supervised release of not more than 3 years.
9 Defendant understands that failure to comply with any of
10 the conditions of supervised release may result in
11 revocation of supervised release, requiring Defendant to
12 serve in prison all or part of the term of supervised
13 release.

11 IV

12 DEFENDANT'S WAIVER OF TRIAL RIGHTS

13 Defendant understands that this guilty plea waives the right to:

- 14 A. continue to plead not guilty and require the Government to
15 prove the elements of the crime beyond a reasonable doubt;
16 B. a speedy and public trial by jury;
17 C. the assistance of counsel at all stages of trial;
18 D. confront and cross-examine adverse witnesses;
19 E. present evidence and to have witnesses testify on behalf of
20 defendant; and,
21 F. not testify or have any adverse inferences drawn from the
22 failure to testify.

22 V

23 DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE
24 PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

25 The Government represents that any information establishing the
26 factual innocence of defendant known to the undersigned prosecutor in
27 this case has been turned over to defendant. The Government will
28

1 continue to provide such information establishing the factual
2 innocence of defendant.

3 Defendant understands that if this case proceeded to trial, the
4 Government would be required to provide impeachment information
5 relating to any informants or other witnesses. In addition, if
6 defendant raised an affirmative defense, the Government would be
7 required to provide information in its possession that supports such
8 a defense. Defendant acknowledges, however, that by pleading guilty
9 defendant will not be provided this information, if any, and
10 Defendant also waives the right to this information. Finally,
11 defendant agrees not to attempt to withdraw the guilty plea or to file
12 a collateral attack based on the existence of this information.

13 VI

14 DEFENDANT'S REPRESENTATION THAT GUILTY 15 PLEA IS KNOWING AND VOLUNTARY

16 Defendant represents that:

- 17 A. Defendant has had a full opportunity to discuss all the
18 facts and circumstances of this case with defense counsel,
and has a clear understanding of the charges and the
consequences of this plea;
- 19 B. No one has made any promises or offered any rewards in
20 return for this guilty plea, other than those contained in
this agreement or otherwise disclosed to the court;
- 21 C. No one has threatened defendant or defendant's family to
22 induce this guilty plea; and,
- 23 D. Defendant is pleading guilty because in truth and in fact
defendant is guilty and for no other reason.
- 24 E. "Package" Disposition. Further, defendant expressly
25 acknowledges her understanding that the disposition
26 contemplated by this agreement is part of a "package"
27 disposition with her codefendant(s) ALEXANDRA BUTCHER,
wherein the Government's obligations under the agreement
are conditioned on the performance by defendant and her
codefendant(s) of their obligations under the agreement.

28 VII

1 **AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE**
2 **SOUTHERN DISTRICT OF CALIFORNIA**

3 This plea agreement is limited to the United States Attorney's
4 Office for the Southern District of California, and cannot bind any
5 other federal, state or local prosecuting, administrative, or
6 regulatory authorities, although the Government will bring this plea
7 agreement to the attention of other authorities if requested by the
8 defendant.

9 **VIII**

10 **APPLICABILITY OF SENTENCING GUIDELINES**

11 Defendant understands the sentence imposed will be based on the
12 factors set forth in 18 U.S.C. § 3553(a). Defendant understands
13 further that in imposing the sentence, the sentencing judge must
14 consult the United States Sentencing Guidelines (Guidelines) and take
15 them into account. Defendant has discussed the Guidelines with
16 defense counsel and understands that the Guidelines are only advisory,
17 not mandatory, and the court may impose a sentence more severe or less
18 severe than otherwise applicable under the Guidelines, up to the
19 maximum in the statute of conviction. Defendant understands further
20 that the court may order a presentence report to be prepared by the
21 U.S. Probation Office and that defense counsel and the Government will
22 have an opportunity to review and challenge the presentence report.
23 Nothing in this plea agreement shall be construed as limiting the
24 Government's duty to provide complete and accurate facts to the
25 district court and the U.S. Probation Office.

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IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). Defendant understands that the sentence is within the sole discretion of the sentencing judge. The Government has not made and will not make any representation as to what sentence defendant will receive. Defendant understands that the sentencing judge may impose the maximum sentence provided by statute, and is also aware that any estimate of the probable sentence by defense counsel is a prediction, not a promise, and is not binding on the Court. Likewise, the recommendation made by the Government is not binding on the Court, and it is uncertain at this time what defendant's sentence will be. Defendant also has been advised and understands that if the sentencing judge does not follow any of the parties' sentencing recommendations, defendant nevertheless has no right to withdraw the plea.

X

PARTIES' SENTENCING RECOMMENDATIONSA. SENTENCING GUIDELINE CALCULATIONS

Although the parties understand that the Guidelines are only advisory and just one of the factors the court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments and Departures:

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1	1. Base Offense Level [USSG § 2L1.1(a)(3)]	12
2	2. Prior Immigration Felony [USSG § 2L1.1(b)(3)]	0*
3	3. Acceptance of Responsibility [USSG § 3E1.1]	-2
4	4. Departure for Fast Track [USSG § 5K3.1]	<u>-2</u>
5	Total Offense Level	8

6 *There is no agreement regarding defendant's criminal history
7 category. However, if defendant has previously sustained a conviction
8 for a felony immigration and naturalization offense, the parties will
9 recommend a +2 adjustment, pursuant to USSG 2L1.1(b)(3)(A). If
10 defendant has previously sustained two or more such felony immigration
11 convictions, the parties will recommend a +4 adjustment, pursuant to
12 USSG 2L1.1(b)(3)(B).

13 B. ACCEPTANCE OF RESPONSIBILITY

14 Notwithstanding paragraph A.3 above, the Government will not
15 recommend any adjustment for Acceptance of Responsibility if
16 defendant:

- 17 1. Fails to admit a complete factual basis for the plea
18 at the time it is entered, or
- 19 2. Denies involvement in the offense, gives conflicting
20 statements about that involvement, or is untruthful
21 with the Court or probation officer, or
- 22 3. Fails to appear in court, or
- 23 4. Engages in additional criminal conduct, or
- 24 5. Attempts to withdraw the plea, or
- 25 6. Refuses to abide by any lawful court order.
- 26 7. Contests or assists any third party in contesting the
27 forfeiture of property(ies) seized or forfeited in
28 connection with this case.

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C. ADJUSTMENTS; DEPARTURES; AND SENTENCE REDUCTIONS UNDER
18 U.S.C. § 3553

The parties agree that defendant may not request or recommend additional downward adjustments, departures, including criminal history departures under USSG § 4A1.3., and sentence reductions under 18 U.S.C. § 3553, and that the Government may oppose any such downward adjustments, departures and sentence reductions not set forth in Section X, paragraph A above.

D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

The parties have **no** agreement as to defendant's Criminal History Category.

E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

The parties agree that the facts in the "factual basis" paragraph of this agreement are true, and may be considered as "relevant conduct" under USSG § 1B1.3 and as the nature and circumstances of the offense under 18 U.S.C. § 3553(a)(1).

F. PARTIES' RECOMMENDATIONS REGARDING CUSTODY

The parties jointly will recommend that defendant be sentenced to 60 days or the low end of the advisory guideline range as calculated by the Government whichever is greater followed by 3 years supervised release.

G. SPECIAL ASSESSMENT

The parties will jointly recommend that defendant pay a special assessment in the amount of \$100.00 to be paid forthwith at time of sentencing. The special assessment shall be paid through the office of the Clerk of the District Court by bank or cashier's check or money order made payable to the "Clerk, United States District Court."

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1 H. STIPULATED REMOVAL

2 If defendant is not a United States citizen or national, either
 3 before or immediately following sentencing, defendant agrees to an
 4 order of removal from the United States entered by Executive Office
 5 for Immigration Review or authorized Department of Homeland Security
 6 official. Defendant understands that defendant will not be removed
 7 until defendant has served any criminal sentence imposed in this or
 8 any other case. Defendant further waives any right to appeal, reopen
 9 or challenge the removal order.

10 XI

11 DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK

12 In exchange for the Government's concessions in this plea
 13 agreement, defendant waives, to the full extent of the law, any right
 14 to appeal or to collaterally attack the conviction and sentence,
 15 including any restitution order, unless the Court imposes a custodial
 16 sentence above the greater of the high end of the guideline range
 17 recommended by the Government pursuant to this agreement at the time
 18 of sentencing or statutory mandatory minimum term, if applicable. If
 19 the custodial sentence is greater than the high end of that range, the
 20 defendant may appeal, but the Government will be free to support on
 21 appeal the sentence actually imposed. If defendant believes the
 22 Government's recommendation is not in accord with this agreement,
 23 defendant will object at the time of sentencing; otherwise the
 24 objection will be deemed waived.

25 If defendant breaches this plea agreement, at any time, in any
 26 way, including but not limited to appealing or collaterally attacking
 27 the conviction or sentence, the Government may prosecute defendant for
 28 any counts, including those with mandatory minimum sentences,

1 dismissed or not charged pursuant to this plea agreement.
2 Additionally, the Government may use any factual admissions made by
3 defendant pursuant to this plea agreement in any such prosecution.

4 XII

5 CRIMES AFTER ARREST OR BREACH OF THE AGREEMENT WILL PERMIT
6 THE GOVERNMENT TO RECOMMEND A HIGHER SENTENCE OR SET ASIDE
7 THE PLEA

8 This plea agreement is based on the understanding that, prior to
9 defendant's sentencing in this case, defendant has not committed or
10 been arrested for any offense not known to the Government prior to
11 defendant's sentencing. This plea agreement is further based on the
12 understanding that defendant has committed no criminal conduct since
13 defendant's arrest on the present charges, and that defendant will
14 commit no additional criminal conduct before sentencing. If defendant
15 has engaged in or engages in additional criminal conduct during this
16 period, or breaches any of the terms of any agreement with the
17 Government, the Government will not be bound by the recommendations
18 in this plea agreement, and may recommend any lawful sentence. In
19 addition, at its option, the Government may move to set aside the
20 plea.

21 XIII

22 ENTIRE AGREEMENT

23 This plea agreement embodies the entire agreement between the
24 parties and supersedes any other agreement, written or oral.

25 XIV

26 MODIFICATION OF AGREEMENT MUST BE IN WRITING

27 No modification of this plea agreement shall be effective unless
28 in writing signed by all parties.

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XV

DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT

By signing this agreement, defendant certifies that defendant has read it (or that it has been read to defendant in defendant's native language). Defendant has discussed the terms of this agreement with defense counsel and fully understands its meaning and effect.


XVI

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with counsel's representation.

KAREN P. HEWITT
United States Attorney

5/10/10
DATED

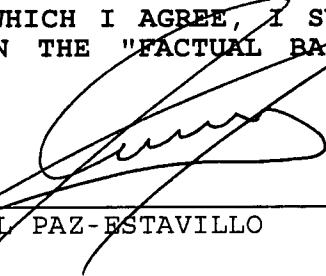

HELEN H. HONG
Assistant U.S. Attorney

4/27/10
DATED


ELIZABETH M. BARROS
Defense Counsel

IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS" PARAGRAPH ABOVE ARE TRUE.

04/27/2010
DATED


JESUS ANGEL PAZ-ESTAVILLO
Defendant